

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 18-1595-CJC (SP)	Date	June 7, 2019
Title	Benito Reyes Santana v. FCI Victorville Medical Staff		

Present: The Honorable	Sheri Pym, United States Magistrate Judge
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Kimberly Carter

None Appearing

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

None Appearing

None Appearing

Proceedings: (In Chambers) Second Order to Show Cause Why the Case Should Not Be Dismissed For Failure to Pay the Initial Partial Filing Fee

On July 30, 2018, plaintiff Benito Reyes Santana, who was then a federal prisoner proceeding in forma pauperis, filed a Complaint pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d 619 (1971). Plaintiff alleges defendants at the Federal Correctional Institution in Victorville, California, failed to give him medical treatment during his incarceration. Plaintiff was released from prison on April 23, 2019.

On August 20, 2018, plaintiff filed a request to proceed in forma pauperis (“IFP”) and attached a copy of his prison trust account balance. On August 27, 2018, the court granted plaintiff’s IFP application and ordered that plaintiff pay an initial partial filing fee of \$158.58 within 30 days of the order. The court cautioned plaintiff that failure to remit the initial partial filing fee may result in dismissal of the case. Plaintiff did not pay the initial partial filing fee by the deadline set by the court. On March 14, 2019, the court issued a form Order to Show Cause (“OSC”) why the case should not be dismissed for failure to pay the initial partial filing fee and ordered plaintiff to file a response no later than 21 days from the date of the OSC. Plaintiff did not file a response by the April 4, 2019 deadline, nor did he discharge the OSC by paying the initial partial filing fee.

In the meantime, plaintiff has proceeded to file other documents with the court, including a Notice of Change of Address and a First Amended Complaint. But plaintiff still has not responded to the OSC, which warned plaintiff that failure to file a response may be deemed consent to the dismissal of the action without prejudice.

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Accordingly, within **twenty-one (21)** days of the date of this Order, that is, by **June 28, 2019**, plaintiff is **ORDERED TO SHOW CAUSE**, in writing, why this action should not be dismissed for failure to pay the initial partial filing fee and/or comply with a court order. Plaintiff is cautioned that his failure to timely file a response to this Order to Show Cause will be deemed by the court as consent to the dismissal of this action without prejudice. In the event plaintiff pays the initial partial filing fee by June 28, 2019, this Order to Show Cause will be automatically discharged, and plaintiff need not respond to it separately.